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THE ^{1/}ALBERTA ^{2/}HUMAN RIGHTS COMMISSION

^{3/}ANNUAL REPORT

FOR THE CALENDAR YEAR 1973

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THE ALBERTA HUMAN RIGHTS COMMISSION

Max Wyman	(Edmonton)	Chairman
Vincent A. Cooney	(Calgary)	Commissioner
Muriel E. Venne	(Edmonton)	Commissioner
Jean B. Forest	(Edmonton)	Commissioner
Marvin Fox	(Standoff)	Commissioner
Connie Osterman	(Carstairs)	Commissioner
Nomi S. Whalen	(Calgary)	Commissioner



... it is recognized in Alberta as a fundamental principle, and as a matter of public policy, that all persons are equal in dignity and rights without regard to race, religious beliefs, colour, sex, age, ancestry or place of origin ...

- from the preamble to
The Individual's Rights
Protection Act.

THE ALBERTA HUMAN RIGHTS COMMISSION

PERMANENT STAFF OF

THE ALBERTA HUMAN RIGHTS COMMISSION

Keith C. Henders

Director

Northern Region Office

Elmer Harrison

Supervisor

Gregory J. Cooney (Feb. 1973)

Human Rights Officer

Joyce Halpern (May 1973)

Human Rights Officer

Donald R. Walker (Sept. 1973)

Human Rights Officer

Barbara Stanford

Clerk-Stenographer 111

Shannon Hanna (Sept. 1973)

Clerk-Stenographer 1-11

Southern Region Office

Peter Cresswell

Supervisor

Reginald Newkirk

Human Rights Officer

Jennifer Atkins (Oct. 1973)

Human Rights Officer

Wendy Hatanaka (Feb. 1973)

Clerk-Stenographer 1-11

THE ALBERTA HUMAN RIGHTS COMMISSION

ANNUAL REPORT

1973

Since the members of the Alberta Human Rights Commission were not appointed until January 1, 1974, the first annual report of the Commission must be confined to a description of the work of the permanent members of the staff of the Commission during 1973, and to a formulation of some of the concepts that have emerged during 1974.

So many millions upon millions of words have been written about human rights, it might appear doubtful whether anything new can be written on this topic, no matter how important this topic may be deemed to be. One might well take refuge in the words of a philosopher who wrote, "It has all been said before, but nobody ever listens, and therefore it all must be said again". In a sense this would be a safe refuge because the fundamental principles that should govern human rights were enunciated thousands of years ago. No new principles are needed to advance the rights and freedoms of human beings. However, the eloquent words used to describe these principles have meant different things to different people at different times, and it is necessary to interpret and re-interpret these words in the light of the ever-changing

values of society. This constant task of interpreting and re-interpreting the meaning of human rights and human freedoms is a task that no society should neglect or foresake.

To illustrate, we quote the opening words of the preamble to the Declaration of Independence:

"We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty, and the pursuit of happiness - that to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed, that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness."

As eloquent as these words may seem to be, the writer, Thomas Jefferson, did not intend these unalienable rights to extend to native people, blacks or women! Nor did

he envisage that such rights would ever belong to these three groups of people.

The Constitution of the United States of America starts with the preamble:

"We the People of the United States of America, in Order to form a more perfect Union, establish Justice, insure domestic

Tranquility, provide for the common defence,

promote the general Welfare, and secure the

Blessings of Liberty to ourselves and our

Posterity, do ordain and establish this

Constitution for the United States of America."

This Constitution as it was originally envisaged was written for a slave state, a state in which the phrase "We the People" did not include the three groups of people mentioned above. The so-called emancipation of the blacks had to wait for the time of Lincoln, and women did not obtain the right to vote until the passing of the 19th Amendment, August 18, 1920.

Although these are examples from American history, the situation in Canada is not different. As late as the latter part of the first half of the present century, the then Prime Minister, MacKenzie King would not concede that

women were included in the term "persons" whose rights were guaranteed by the British North America Act.

Although monumental changes have taken place in the field of human rights and liberties since the time of Jefferson, Lincoln and MacKenzie King, improper discrimination still exists in abundance, and slaves and Helots still remain as an integral part of our society.

One of the foremost principles of human rights goes back to the Justinian code, a code that endows all human beings with all rights and privileges except those which interfere with the rights and privileges of other human beings. Although the Justinian code makes a special plea for the maximization of the rights and privileges of human beings as individuals, it explicitly envisages definite limitations and restrictions being placed upon those rights and privileges. It is interesting to note that the Justinian code endows no rights or privileges upon the State per se, and therefore such a code would not be acceptable for any form of government other than a democracy. The codification in written form of the limitations and restrictions that a society wants imposed on the freedom of its citizens is, of course, the law of the land. The way the law is written and enforced will mirror the will of those who govern to enhance, or detract from, the rights and privileges of those who are governed.

Although it is over twenty-five years since the General Assembly of the United Nations adopted a Universal Declaration of Human Rights, the document still remains nothing more than a declaration. It has no legal status and is not enforceable on any nation that chooses to ignore the principles of that Declaration. Apartheid is still the policy and philosophy of South Africa. Totalitarian countries still refuse to recognize the right of their citizens to leave these countries, and indeed some still take punitive measures against people who openly make an attempt to leave such countries.

The people of Alberta should abhor discrimination because of race, colour, creed, or sex, no matter where it occurs. They should, of course, help eliminate such discrimination to the best of their ability. Having said this, it is important to go on to say that the freedoms guaranteed by Provincial Legislation, and restrictions imposed by such legislation, apply only to the people who are presently in Alberta. The people of Alberta cannot hope to solve overnight a problem that has proven up to the present time to be beyond the capacity of the United Nations to solve. The conflict between a desire to help everyone and having the financial resources and legislative power to help only a selected few is a problem to which we shall refer again in the next section of our report.

ALBERTA

In the field of human rights, the situation in Alberta is unique. When the Honourable Peter Lougheed, the Premier of Alberta, rose to introduce the first piece of legislation of his new Government, he proudly announced that it would be a bill known as "The Alberta Bill of Rights". A companion bill, "The Individual's Rights Protection Act" was the second piece of legislation passed by the Lougheed Government. The language used to describe the rights and freedoms of human beings is the same as the language used for thousands of years to describe such rights and freedoms. This is not the aspect which makes the situation in Alberta unique. It is the Stoic intent of these two pieces of legislation that sets them apart from the hundreds of other bills that have been passed in this and other jurisdictions.

"The Alberta Bill of Rights", and its companion, "The Individual's Rights Protection Act" are pieces of primacy legislation, primacy in the sense that their powers exceed the powers of all existing pieces of legislation enacted by previous Governments of Alberta. No new legislation introduced by the Lougheed Government has in any way curtailed the powers of "The Alberta Bill of Rights" and "The Individual's Rights Protection Act".

One of the consequences of these new pieces of legislation was the removal of the discriminatory restrictions on the purchase of land by Hutterites.

The legislation makes it abundantly clear that visitors to our Province must be treated with courtesy and dignity. Services such as transportation, lodging and food may not be denied to any person because of race, religious beliefs, colour, sex, ancestry, or place of origin. For those people who come to live in Alberta, this Province requires that the offering of places to live and the offering of places to work be free of all the discrimination mentioned above. All of this is easy to understand, and causes the Commission no difficulty in interpretation. However, this Province, like all other provinces, offers many other services, and in certain areas the problem of interpretation becomes extremely difficult, and is badly in need of clarification.

Alberta supports major educational services and facilities, services and facilities that require hundreds of millions of dollars of financial support each year. Part of this support is supplied by urban or rural governments, part by the Provincial Government, part by the Federal Government, and part by the students, or family of the students involved. Under such conditions, is it an act of discrimination, because of place of origin, to charge a fee

to a rural student who wants to attend an urban school? Is it an act of religious discrimination to place restrictions on a catholic student who wants to attend a public school, or vice-versa? Is it an act of forbidden discrimination to deny access to our educational institutions to students who do not live in Alberta?

Decisions based on a selection process are made every hour of every day. Every selection process endowing a right of some kind on one group of people, and denying the same right to another group, is a discriminating act. It is neither possible nor desirable to avoid the use of some process of selection, and therefore avoid all acts of discrimination. All that can be done, indeed all that should be done, is to ensure that the selection process is acceptable to a particular society at a particular time in its history.

The Commission expects to have major difficulties in establishing a meaning for terms like "an acceptable discriminating factor" and "an unacceptable discriminating factor". Some of our interpretations will certainly be challenged, and indeed some may well be challenged in the courts.

When the Premier of the Province, the Honourable Peter Lougheed, announced, on December 10th, 1973, the names

of the appointees to the first Alberta Human Rights Commission, he called attention to the duties and functions this Commission is expected to perform. These are:

- (a) to forward the principle that every person is equal in dignity and rights without regard to race, religious beliefs, colour, sex, age, ancestry or place of origin,
- (b) to promote an understanding of, acceptance of and compliance with this Act,
- (c) to research, develop, and conduct educational programs designed to eliminate discriminatory practices related to race, religious beliefs, colour, sex, age, ancestry or place of origin, and
- (d) to encourage and coordinate both public and private human rights programs and activities.

The words "to forward", "to promote", "to research" and "to encourage", are carefully chosen, and indicate a realization by our Government that there still are, figuratively speaking, many slaves and Helots in Alberta. Although the Commission can act as a catalyst to bring about the vision of our Government, this vision can only be made a reality by the people of Alberta.

In the relatively few months the Commission has been in existence, the members have concentrated on the enforcement part of our function. If adequate financial resources are made available, we expect to make a start on the other important functions that have been assigned to the Commission by the Government.

THE PERMANENT STAFF OF THE COMMISSION

The direct legislative interest of Alberta in the field of human rights began when the then Social Credit Government of Alberta passed, in September, 1966, "The Human Rights Act". On the same date, the Government established "the Human Rights Branch". The first Administrator of the Human Rights Branch was Mr. H. C. French who said "The Human Rights Act" was

"designed to prevent by education, give redress by conciliation, and punish only if necessary by prosecution for acts of discrimination in employment, public accommodation and public services".

This method of operation, initiated by Mr. H. C. French and carried on by his successor, Mr. K. C. Benders, seems to have been successful. In seven years of

operation more than 1600 complaints have been processed, and only three have required more than persuasion and conciliation. None have required resort to the courts. However, there are now indications that this may well change.

From 1966 to 1973, the number of complaints have increased at an average annual rate of over 100% per year. Although this rate will likely subside, it is indicative that the educative process is taking hold, and people are learning to exercise their rights. It has also become clear that the Commission and its permanent staff must be made available to cities other than Edmonton and Calgary, and to the many rural areas of Alberta. This will require a major addition to the permanent staff of the Commission, and physical facilities will have to be provided to house such new members of staff.

The two administrators mentioned above have both insisted on the following policy:

- (1) Every complainant, no matter how trivial the complaint may be deemed to be, must be treated with courtesy and dignity.
- (2) Every human rights officer must approach every complaint in an unbiased manner, and must not on an a priori basis favor one adversary over another.

To be truly effective the Commission must gain the respect of all adversaries, employers and employees, tenants and landlords, and any other groups of natural adversaries. The present permanent staff are well trained, dedicated to the work that has been assigned to them, and effective in the carrying out of that work. Without such a staff, the Commission would not be able to function.

We have chosen two examples to illustrate easily resolvable complaints the permanent staff regularly receive.

An East Indian engineer, recently arrived from the United States, was given conflicting stories about the availability of rented accommodation by the managers of a high-rise apartment. He asked a Canadian friend to make an application to rent an apartment, and immediately several apartments were available. Following involvement by the Commission, the complainant was offered an apartment and the managers have given written assurance that their rental policy would no longer be discriminatory.

A male Filipino complained that he had been fired because of his race. Investigation by one of our staff disclosed that the company terminated the employment of this man because he was unable to perform the work required of him. The termination was not related to his race. It took considerable effort on the part of our staff to make the man

involved see the situation as it really was, not as he envisaged it to be. We are convinced that this effort was worth the while, and this man will approach his new position in quite a different way.

Individual cases of this type may not seem exciting, or even important in the vast field of human rights. However, when they begin to number in the thousands, it should become clear that this is one important way that discriminatory practices can be properly understood, and eliminated from our society.

More exciting class action types of complaint, involving thousands of people, are just beginning to come the way of the Commission. Compelling statistics are being produced to show that men and women do not share equal opportunity for work, and they are not paid equal amounts for the same work. Rectification of some of these situations may well require millions of dollars, and the will of the people will be truly tested as to whether or not they wish to end such discriminatory practices.

It is well for the people of Alberta to become aware that unacceptable discrimination permeates our society. The Government has taken the necessary first step to ending such discrimination. The people of Alberta, acting individually and through their Government, must take all the

remaining steps to eliminate unnecessary and undesirable discrimination.

OTHER ACTIVITIES

Alberta is not, of course, alone in its desire to fight unacceptable and unnecessary discrimination. Groups such as ours have been formed in other provinces, and in other countries. It is the policy of the Commission to communicate and cooperate with as many of these groups as is possible. Such a policy carries with it a commitment to allow members of our staff to travel, and to participate in seminars, workshops, and conferences, dealing with topics related to human rights. One or more members of our staff have participated in the following seminars, workshops or conferences:

1. Conference sponsored by Alberta Metis Association - Edmonton, March, 1973.
2. Annual Meeting, Canadian Association of Statutory Human Rights Agencies - Ottawa, May, 1973.
3. Workshop sponsored by Federal Department of Labor - Vancouver, May, 1973.

4. Cultural Heritage Conference - Edmonton,
June, 1973.
5. Native Education Conference - Lethbridge,
June, 1973.
6. International Association of Official
Human Rights Agencies - Atlanta, Georgia,
July, 1973.
7. Federal and Provincial Workshop - Montobello,
July, 1973.

In addition, members of our staff have taken part in a number of conferences sponsored by the Edmonton Branch of the United Nations Association, by the Child Welfare League of America, by the Edmonton Social Planning Council, by the Division of Community Development, University of Alberta, and by the Calgary Inter-Agency Council.

One article, "A Study into Sex Stereotypes in Elementary School Textbooks in Alberta" published by a member of our staff in the Commission's quarterly newsletter, Human Concern, has received a fair amount of publicity in Canada. The article has been reproduced by the United Church of Canada, the Alberta Home Economics Association, the Business Women's Magazine, and has been mentioned in Chatelaine Magazine.

The Commission views research as one of the major vehicles it will use to focus attention on the direction the

Commission will take in the immediate future. Although some members of our staff have done some research, this particular area of the activities of the Commission is weak, and must be strengthened by expansion and by the allocation of additional financial resources.

CONCLUSION

In the field of individual complaints, the permanent staff of the Alberta Human Rights Commission have come a long way during the past few years. The people of Alberta are beginning to become aware of their rights, and are beginning to exercise their rights by making appeals to the Commission. For the first time, major class action type of appeals are beginning to appear, and it is clear that quite different techniques must be devised to deal with this kind of appeal. No large organization will accept a charge of discrimination without resistance, and in many instances legal technicalities will be used as a defence. Sooner or later, some organization will test the intent of our two major pieces of legislation in the courts.

To be effective, the Human Rights Commission must appear to be an agency that is a catalyst in overcoming

difficult situations. It must always be unbiased, and must never appear to favor consistently one group of adversaries over another. Although the Commission has a legal route to follow, such a route is long, arduous, and expensive. This route must always be a route of last resort. Education and persuasion are the major tools the Commission should use consistently. These will only be effective if the cooperation and help of the Commission is welcomed and accepted by the vast majority of people in Alberta.

APPENDIX I

COMPLAINTS RELATED TO:

COMPLAINTS IN AREA OF:	RACE - COLOUR				Religion	SEX		Sex and Age	Age	Ancestry	Place of Origin	Marital Status	Other	SUB TOTALS	TOTALS
	Black	Native	East Indian or Pakistani	Oriental		Female	Male								
DISCRIMINATORY SIGNS (2)				1			1							2	2
PUBLIC ACCOM. SERVICES (3)	5	8	4	1	2	7	5			3	6	2	12	41	72
TENANCY (4)	1	20	1	2		1							1	26	34
EQUAL PAY (5)						9								9	9
EMPLOYMENT (6)	2	1	4	3	1	20	12		8	1	1	4		57	73
ADVERTISEMENTS APPLICATIONS (7)	1	1				2	2		3	1		1	6	16	
		1			1	93	40		45			2	1	4	198
UNIONS, ETC. (9)															
RETALIATION (10)						2	1							3	3
OTHER															
FORMAL SUB-TOTALS	8	30	9	7	3	41	19		8	5	7	4	1	142	395
INFORMAL SUB-TOTALS	3	11			3	100	45		48		2	8	21	253	
TOTALS FORMAL INFORMAL	11	41	9	7	6	141	64		56	5	9	12	22		
TOTALS		68			6	205			56	14		12	22		

• / FORMAL COMPLAINTS
/ INFORMAL COMPLAINTS

SOUTHERN REGIONAL OFFICE

COMPLAINTS RELATED TO:

COMPLAINTS IN AREA OF:	RACE - COLOUR				Religion	SEX		Sex and Age	Age	Ancestry	Place of Origin	Marital Status	Other	SUB TOTALS	TOTALS
	Black	Native	East Indian or Pakistani	Oriental		Female	Male								
DISCRIMINATORY SIGNS (2)						1							1	2	2
PUBLIC ACCOM. & SERVICES (3)	2 2	8 10	1 3		1	8 7		1 4	1 4	1 2	4 2	1 1	1 24	27 53	80
TENANCY (4)	5	14	1			1	2					1	22	22	34
EQUAL PAY (5)			3			23							6	12	23
EMPLOYMENT (6)	8 2	6 2	6		2	29 9	11 4	19 6	10 3	6 4	6 4	4 1	2 42	101 75	176
ADVERTISEMENTS APPLICATIONS (7)					2	8 14	3 7	1 1	1 1		1		13 1	13 27	40
UNIONS, ETC. (9)													2	2	2
RETALIATION (10)	1													1	1
OTHER					1								10	13	13
FORMAL SUB-TOTALS	16	28	8		1	69	14	1	21	11	10	5	3	187	371
INFORMAL SUB-TOTALS	4	17	4		5	33	11	1	11	3	7	2	86	184	
TOTALS FORMAL INFORMAL	20	45	12	—	6	102	25	2	32	14	17	7	89		
TOTALS	77				6	127		2	32	31		7	89		

* / FORMAL COMPLAINTS
/ INFORMAL COMPLAINTS

NORTHERN REGIONAL OFFICE

COMPLAINTS RELATED TO:

COMPLAINTS IN AREA OF:	RACE - COLOUR				Religion	SEX		Sex and Age	Age	Ancestry	Place of Origin	Marital Status	Other	SUB TOTALS	TOTALS
	Black	Native	East Indian or Pakistani	Oriental		Female	Male								
DISCRIMINATORY SIGNS (2)				1		1	1							2	4
PUBLIC ACCOM. & SERVICES (3)	7	16	5	1	3	15	5		1	4	10	3	1	68	152
TENANCY (4)	6	34	2	2		2						1	1	48	68
EQUAL PAY (5)						32								32	32
EMPLOYMENT (6)	10	7	10	3	1	49	23		27	11	7	8	2	158	249
ADVERTISEMENTS APPLICATIONS (7)		1				10	3	1	1	1				17	238
UNIONS, ETC. (9)															2
RETALIATION (10)	1					2	1							4	4
OTHER		4		1											17
FORMAL SUB-TOTALS	24	58	17	7	4	110	33	1	29	16	17	9	4	329	
INFORMAL SUB-TOTALS	7	28	4	1	8	133	56	13	59	3	9	10	107	437	
TOTALS FORMAL INFORMAL	31	86	21	8	12	243	89	14	88	19	26	19	111		766
TOTALS		145			12	332		14	88	45		19	111		

 * / . FORMAL COMPLAINTS
 . / . INFORMAL COMPLAINTS

TOTAL PROVINCE



1972

CHAPTER 1

THE ALBERTA BILL OF RIGHTS

(Assented to November 15, 1972)

Preamble

WHEREAS the free and democratic society existing in Alberta is founded upon principles that acknowledge the supremacy of God and upon principles, fostered by tradition, that honour and respect human rights and fundamental freedoms and the dignity and worth of the human person;

AND WHEREAS the Parliament of Canada, being desirous of enshrining certain principles and the human rights and fundamental freedoms derived from them, enacted the Canadian Bill of Rights in order to ensure the protection of those rights and freedoms in Canada in matters coming within its legislative authority;

AND WHEREAS the Legislature of Alberta, affirming those principles and recognizing the need to ensure the protection of those rights and freedoms in Alberta in matters coming within its legislative authority, desires to enact The Alberta Bill of Rights.

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

**Recognition
and
declaration
of rights
and
freedoms**

1. It is hereby recognized and declared that in Alberta there exist without discrimination by reason of race, national origin, colour, religion or sex, the following human rights and fundamental freedoms, namely:

- (a) the right of the individual to liberty, security of the person and enjoyment of property, and the right not to be deprived thereof except by due process of law;
- (b) the right of the individual to equality before the law and the protection of the law;
- (c) freedom of religion;
- (d) freedom of speech;
- (e) freedom of assembly and association; and
- (f) freedom of the press.

Construc-
tion of
law

2. Every law of Alberta shall, unless it is expressly declared by an Act of the Legislature that it operates notwithstanding The Alberta Bill of Rights, be so construed and applied as not to abrogate, abridge or infringe or to authorize the abrogation, abridgment or infringement of any of the rights or freedoms herein recognized and declared.

Saving

3. (1) Nothing in this Act shall be construed to abrogate or abridge any human right or fundamental freedom not enumerated herein that may have existed in Alberta at the commencement of this Act.

"Law of
Alberta"
defined

(2) In this Act, "law of Alberta" means an Act of the Legislature of Alberta enacted before or after the commencement of this Act, any order, rule or regulation made thereunder, and any law in force in Alberta at the commencement of this Act that is subject to be repealed, abolished or altered by the Legislature of Alberta.

Juris-
diction
of Legis-
lature

(3) The provisions of this Act shall be construed as extending only to matters coming within the legislative authority of the Legislature of Alberta.

Notice
to
Attorney
General

4. (1) Where in any action or other proceeding a question arises as to whether any law of Alberta abrogates, abridges or infringes, or authorizes the abrogation, abridgment or infringement, of any of the rights and freedoms herein recognized and declared, no adjudication on that question is valid unless notice has been given to the Attorney General.

(2) Where the Attorney General has notice under subsection (1), he may, in person or by counsel, appear and participate in that action or proceeding on such terms and conditions as the court, person or body conducting the proceeding may consider just.

Coming
into force

5. This Act comes into force on a date to be fixed by Proclamation.



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GOVERNMENT OF THE PROVINCE OF ALBERTA

THE INDIVIDUAL'S RIGHTS PROTECTION ACT

being chapter 2 of the Statutes of Alberta, 1972 with
amendments up to and including October 30, 1973

OFFICE CONSOLIDATION

NOTE

All persons making use of this consolidation are reminded that it has no legislative sanction; that the amendments have been embodied only for convenience of reference, and that the original Acts should be consulted for all purposes of interpreting and applying the law.

1972

CHAPTER 2

THE INDIVIDUAL'S RIGHTS PROTECTION ACT

(Assented to November 22, 1972)

Preamble

WHEREAS recognition of the inherent dignity and the equal and inalienable rights of all persons is the foundation of freedom, justice and peace in the world; and

WHEREAS it is recognized in Alberta as a fundamental principle and as a matter of public policy that all persons are equal in dignity and rights without regard to race, religious beliefs, colour, sex, age, ancestry or place of origin; and

WHEREAS it is fitting that this principle be affirmed by the Legislature of Alberta in an enactment whereby those rights of the individual may be protected:

THEREFORE HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

Effect of Act on provincial laws

1. (1) Unless it is expressly declared by an Act of the Legislature that it operates notwithstanding this Act, every law of Alberta is inoperative to the extent that it authorizes or requires the doing of anything prohibited by this Act.

(2) In this Act, "law of Alberta" means an Act of the Legislature of Alberta enacted before or after the commencement of this Act, any order, rule or regulation made thereunder, and any law in force in Alberta at the commencement of this Act that is subject to be repealed, abolished or altered by the Legislature of Alberta.

[1972, c. 2, s.1]

Code of Conduct

Discrim- ination in notices prohibited

2. (1) No person shall publish or display before the public or cause to be published or displayed before the public any notice, sign, symbol, emblem or other representation indicating discrimination or an intention to discriminate against any person or class of persons for any purpose because of the race, religious beliefs, colour, sex, age, ancestry or place of origin of that person or class of persons,

(2) Nothing in this section shall be deemed to interfere with the free expression of opinion upon any subject.

(3) Subsection (1) does not apply to

(a) the display of a notice, sign, symbol, emblem or other representation displayed to identify facilities customarily used by one sex, or

(b) the display or publication by or on behalf of an organization that

(i) is composed exclusively or primarily of persons having the same political or religious beliefs, ancestry or place of origin, and

(ii) is not operated for private profit, of a notice, sign, symbol, emblem or other representation indicating a purpose or membership qualification of the organization, or

(c) the display or publication of a form of application or an advertisement that may be used, circulated or published pursuant to section 7, subsection (2),

if the notice, sign, symbol, emblem or other representation is not derogatory, offensive or otherwise improper.

[1972, c. 2, s. 2]

Discrim-
ination
re public
accommo-
dation, etc.
prohibited

3. No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall

(a) deny to any person or class of persons any accommodation, services or facilities customarily available to the public, or

(b) discriminate against any person or class of persons with respect to any accommodation, services or facilities customarily available to the public, because of the race, religious beliefs, colour, sex, ancestry or place of origin of that person or class of persons or of any other person or class of persons. [1972, c. 2, s. 3]

Discrim-
ination
re tenancy
prohibited

4. No person, directly or indirectly, alone or with another, by himself or by the interposition of another, shall

(a) deny to any person or class of persons the right to occupy as a tenant, any commercial unit or self-contained dwelling unit that is advertised or otherwise in any way represented as being available for occupancy by a tenant, or

(b) discriminate against any person or class of persons with respect to any term or condition of the tenancy of any commercial unit or self-contained dwelling units,

because of the race, religious beliefs, colour, sex, ancestry or place of origin of that person or class of persons or of any other person or class of persons. [1972, c. 2, s. 4]

Equal pay

5. (1) No employer shall

- (a) employ a female employee for any work at a rate of pay that is less than the rate of pay at which a male employee is employed by that employer for similar or substantially similar work, or
- (b) employ a male employee for any work at a rate of pay that is less than the rate of pay at which a female employee is employed by that employer for similar or substantially similar work.

(2) Work for which a female employee is employed and work for which a male employee is employed shall be deemed to be similar or substantially similar if the job, duties or services the employees are called upon to perform are similar or substantially similar.

(3) A difference in the rate of pay between a female and male employee based on any factor other than sex does not constitute a failure to comply with this section if the factor on which the difference is based would normally justify such a difference.

(4) No employer shall reduce the rate of pay of an employee in order to comply with this section.

(5) Where an employee is paid less than the rate of pay to which the employee is entitled under this section, the employee is entitled to recover from the employer by action the difference between the amount paid and the amount to which the employee was entitled, together with costs, but

- (a) the action shall be commenced within 12 months from the date upon which the cause of action arose and not afterward,
- (b) the action applies only to the wages of an employee during the 12-month period immediately preceding the termination of the employee's services or the commencement of the action, whichever occurs first,
- (c) the action may not be commenced or proceeded with where the employee has made a complaint to the Commission in respect of the contravention of this section, and
- (d) no complaint by the employee in respect of the contravention shall be acted upon by the Commission where an action has been commenced by the employee under this section.

[1972, c. 2, s. 5; 1973, c. 61, s. 9]

Discrimination re employment practices prohibited

6. (1) No employer or person acting on behalf of an employer shall

- (a) refuse to employ or refuse to continue to employ any person, or

- (b) discriminate against any person with regard to employment or any term or condition of employment,

because of the race, religious beliefs, colour, sex, marital status, age, ancestry or place of origin of that person or of any other person.

(2) The provisions of subsection (1) relating to age and marital status shall not affect the operation of any bona fide retirement or pension plan or the terms or conditions of any bona fide group or employee insurance plan.

(3) Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational qualification. [1972, c. 2, s. 6]

Discrimination prohibited in applications and advertisements re employment

7. (1) No person shall use or circulate any form of application for employment or publish any advertisement in connection with employment or prospective employment or make any written or oral inquiry of an applicant,

- (a) that expresses either directly or indirectly any limitation, specification or preference as to the race, religious beliefs, colour, sex, age, ancestry or place of origin of any person, or

- (b) that requires an applicant to furnish any information concerning race, religious beliefs, colour, ancestry or place of origin.

(2) Subsection (1) does not apply with respect to a refusal, limitation, specification or preference based on a bona fide occupational qualification. [1972, c. 2, s. 7]

Exemption

8. Sections 6 and 7 do not apply with respect to

- (a) a domestic employed in a private home, or
(b) a farm employee who resides in the private home of the farmer who employs him. [1972, c. 2, s. 8]

Membership in trade union, etc.

9. No trade union, employers' organization or occupational association shall

- (a) exclude any person from membership therein, or
(b) expel or suspend any member thereof, or
(c) discriminate against any person or member,

because of the race, religious beliefs, colour, sex, marital status, age, ancestry or place of origin of that person or member. [1972, c. 2, s. 9]

Protection for complainant

10. No person shall evict, discharge, suspend, expel, intimidate, coerce, impose any pecuniary or other penalty upon, or otherwise discriminate against any person because that person has made a complaint or given evidence or assisted in any way in respect of the initiation or prosecution of a complaint or other proceeding under this Act.

[1972, c. 2, s. 10]

Crown
is bound

11. (1) The prohibitions contained in this Act apply to and bind the Crown in right of Alberta and every agency and servant thereof.

(2) The Lieutenant Governor in Council may by regulations require that contracts designated or classified in the regulations and entered into by

- (a) the Crown in right of Alberta or a member of the Executive Council of Alberta acting for and on behalf of the Crown;
- (b) a municipal corporation in Alberta;
- (c) the board of trustees of a school district or school division in Alberta;
- (d) the board of a hospital as defined in *The Alberta Hospitals Act*;

shall contain such provisions as may be specified in the regulations, in such form and terms as the regulations may provide, for the purpose of securing the observance, as far as possible, of the provisions of sections 2 to 10.

[1972, c. 2, s. 11]

Alberta Human Rights Commission

Alberta
Human
Rights
Commission

12. (1) There shall be a commission to be known as the "Alberta Human Rights Commission" which shall consist of such number of members as may be appointed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may designate one of the members as chairman of the Commission.

(3) The chairman and other members of the Commission shall receive such remuneration for their services as may be prescribed by the Lieutenant Governor in Council.

[1972, c. 2, s. 12]

Administra-
tion of Act

13. The Commission is responsible to the Minister for the administration of this Act.

[1972, c. 2, s. 13]

Functions of
Commission

14. (1) It is the function of the Commission

- (a) to forward the principle that every person is equal in dignity and rights without regard to race, religious beliefs, colour, sex, age, ancestry or place of origin,
- (b) to promote an understanding of, acceptance of and compliance with this Act,
- (c) to research, develop and conduct educational programs designed to eliminate discriminatory practices related to race, religious beliefs, colour, sex, age, ancestry or place of origin, and
- (d) to encourage and co-ordinate both public and private human rights programs and activities.

(2) The Commission may delegate to one or more of its members any of the functions or duties of the Commission.

(3) The Lieutenant Governor in Council may make regulations adding to or extending the functions of the Commission and respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. [1972, c. 2, s. 14]

Director
and staff

15. In accordance with *The Public Service Act*, there may be appointed a Director of the Commission and such other employees as may be required for the purpose of enabling the Commission to carry on the administration of this Act. [1972, c. 2, s. 15]

Annual
report

16. (1) The Commission shall after the end of each year prepare and submit to the Minister a report of its activities during that year, including a survey of all complaints and prosecutions under this Act and such other information as the Minister may require.

(2) When the report is received by him, the Minister shall lay a copy of it before the Legislative Assembly if it is in session and if not, within 15 days after the commencement of the next ensuing session. [1972, c. 2, s. 16]

Enforcement

Investi-
gation

17. (1) The Commission shall as soon as is reasonably possible cause an investigation to be made into and shall endeavor to effect a settlement of any complaint of an alleged contravention of this Act where

- (a) a person who believes he has been discriminated against contrary to this Act makes a complaint in writing to the Commission, or
- (b) the Commission has reasonable grounds for believing that a complaint exists.

(2) The Commission shall, before commencing an investigation under subsection (1), give notice of the complaint and of the Commission's intention to investigate it, to the person against whom the complaint was made.

(3) Any complaint filed pursuant to this section by an aggrieved person must be filed within six months after the alleged contravention of this Act.

(4) If, in the opinion of the Commission, a complaint is without merit, the Commission may dismiss the complaint at any stage of proceeding. [1972, c. 2, s. 17]

Board of
inquiry

18. (1) If the Commission is unable to effect a settlement of the matter complained of, the Minister shall, on the request of the Commission, appoint a board of inquiry composed of one or more persons to investigate the matter.

(2) The Minister shall forthwith communicate the names of the members of the board of inquiry to the parties to the complaint.

(3) The Lieutenant Governor in Council may determine the rate of remuneration of the chairman and members of boards of inquiry. [1972, c. 2, s. 18]

Powers of
board of
inquiry

19. (1) A board of inquiry and each member thereof has all the powers of a commissioner appointed under *The Public Inquiries Act*.

(2) If a board of inquiry is composed of more than one person, the recommendations of the majority are the recommendations of the board. [1972, c. 2, s. 19]

Evidence
at inquiry

20. (1) A board of inquiry shall give the parties to the complaint full opportunity to be represented by counsel, to present evidence and to make submissions.

(2) The board of inquiry may receive and accept whatever evidence and information on oath, affidavit, or otherwise it, in its discretion, deems fit and proper, whether admissible as evidence in a court of law or not.

(3) *The Administrative Procedures Act* applies to the proceedings of a board of inquiry. [1972, c. 2, s. 20]

Report of
inquiry

21. (1) A board of inquiry shall submit a report of its inquiry to the Commission within 14 days, exclusive of Saturdays and holidays, after its appointment or within such longer period as the Minister may approve.

(2) In its report a board of inquiry shall state whether it found the complaint to be justified or not.

(3) After a board of inquiry has made its report, the Commission may direct it to clarify or amplify any of its findings or recommendations and the report shall be deemed not to have been received by the Commission until they have been so clarified or amplified.

(4) Upon receipt of the report of a board of inquiry, the Commission shall furnish a copy thereof to each of the persons affected and, if it considers it advisable, shall publish the report in such manner as it considers fit.

[1972, c. 2, s. 21]

Inquiry
and order
by Supreme
Court

22. (1) Where a board of inquiry finds a complaint to be justified, in whole or in part, it shall in the report recommend the course of action it thinks ought to be taken with respect to the complaint.

(2) If the Commission cannot effect a settlement on the course of action to be taken with the person against whom the finding was made within 30 days of the date he was

furnished with a copy of the report of the board of inquiry, the Commission shall forthwith deliver all of its files and other records pertaining to the complaint to the Attorney General.

(3) The Attorney General may, within 30 days after receiving the Commission's files and other records pursuant to subsection (2), apply to the Supreme Court of Alberta for an order under subsection (5) by way of originating notice of motion filed in the office of the clerk of the court of the judicial district in which the inquiry of the board of inquiry was held.

(4) The judge hearing the motion shall hold an inquiry de novo and may confirm, reverse or vary the findings and recommendations of the board of inquiry and may make an order under subsection (5).

(5) The judge in his discretion may make an order directing the person against whom the finding was made to do any or all of the following:

- (a) to cease the contravention complained of;
- (b) to refrain in future from committing the same or any similar contravention;
- (c) to make available to the person discriminated against the rights, opportunities or privileges he was denied contrary to this Act;
- (d) to compensate the person discriminated against for all or any part of any wages or income lost or expenses incurred by reason of the discriminatory action;
- (e) to take such other action as the judge considers proper to place the person discriminated against in the position he would have been but for the contravention of this Act;
- (f) to pay to the Crown a penalty of
 - (i) not more than \$200, in the case of an individual, or
 - (ii) not more than \$1000, in the case of a corporation, trade union, employers' organization, employment agency or occupational association;

and the order may be enforced in the same manner as any other order of the Supreme Court. [1972, c. 2, s. 22]

Appeal

23. (1) Where a board of inquiry finds a complaint not to be justified, the person who submitted the complaint may appeal therefrom to the Supreme Court in accordance with this section.

(2) Where a board of inquiry finds a complaint to be justified, in whole or in part, the person against whom the finding was made may appeal therefrom to the Supreme Court in accordance with this section.

(3) An appeal under this section shall be made by way of an originating notice of motion filed with the clerk of

the court of the judicial district in which the inquiry was held.

(4) The originating notice of motion

- (a) shall be filed with the clerk of the court within 30 days of the date the appellant was furnished with a copy of the report of the board of inquiry;
- (b) shall be returnable on a date not later than 15 days after the date it is filed with the clerk;
- (c) shall show as a respondent the complainant or the person against whom the finding of the board of inquiry was made, as the case may be;
- (d) shall show the Commission as a nominal respondent for the purpose only of allowing the Commission to be notified of the motion and subsequent proceedings.

(5) The Supreme Court shall hear and determine the appeal by holding an inquiry de novo and may confirm, reverse or vary the findings and recommendations of the board of inquiry and make any order that may be made under section 22, subsection (5). [1972, c. 2, s. 23]

Order after
inquiry

24. (1) Where an order of the Supreme Court under section 22 or 23 did not direct a person to cease the contravention complained of, the Attorney General may subsequently apply by way of originating notice of motion to the Supreme Court for an order enjoining the person from continuing the contravention.

(2) The judge, in his discretion, may make the order, and the order may be enforced in the same manner as any other order of the Supreme Court. [1972, c. 2, s. 24]

Proceedings
against
trade
unions, etc.

25. (1) Any proceedings under this Act may be instituted against a trade union or employers' organization or occupational association in its name.

(2) Any act or thing done or omitted by an officer, official, or agent of a trade union or employers' organization or occupational association within the scope of his authority to act on its behalf shall be deemed to be an act or thing done or omitted by the trade union or employers' organization or occupational association, as the case may be. [1972, c. 2, s. 25]

Protection
from giving
evidence

26. (1) No member of the Commission, nor the Director or any employee mentioned in section 15, shall be required by any court to give evidence relative to information obtained for the purpose of this Act.

(2) No proceeding under this Act shall be deemed invalid by reason of any defect in form or any technical irregularity. [1972, c. 2, s. 26]

The
Ombudsman
Act

27. *The Ombudsman Act* applies to the activities of the Commission and every board of inquiry appointed under this Act. [1972, c. 2, s. 27]

Definitions

28. In this Act

- (a) "age" means any age of 45 years or more and less than 65 years;
- (b) "commercial unit" means any building or other structure or part thereof that is used or occupied or is intended, arranged or designed to be used or occupied for the manufacture, sale, resale, processing, reprocessing, displaying, storing, handling, garaging or distribution of personal property, or any space that is used or occupied or is intended, arranged or designed to be used or occupied as a separate business or professional unit or office in any building or other structure or in a part thereof;
- (c) "Commission" means the Alberta Human Rights Commission;
- (d) "Director" means the Director of the Commission;
- (e) "employers' organization" means an organization of employers formed for purposes that include the regulation of relations between employers and employees;
- (f) "employment agency" includes a person who undertakes with or without compensation to procure employees for employers and a person who undertakes with or without compensation to procure employment for persons;
- (g) "Minister" means the member of the Executive Council charged with the administration of this Act;
- (h) "occupational association" means any organization other than a trade union or employers' organization in which membership is a prerequisite to carrying on any trade, occupation or profession;
- (i) "person", in addition to the extended meaning given it by *The Interpretation Act*, includes an employment agency, an employers' organization, an occupational association and a trade union;
- (j) "trade union" means an organization of employees formed for purposes that include the regulation of relations between employees and employers.

[1972, c. 2, s. 28]

Repeals
R.S.A. 1970,
c. 178

29. *The Human Rights Act* is repealed.

[1972, c. 2, s. 29]

Amends
R.S.A. 1970,
c. 196

30. *The Alberta Labour Act* is amended by striking out Part 6.

[1972, c. 2, s. 30]

Coming
into force

31. This Act comes into force on a date to be fixed by Proclamation.[1972, c. 2, s. 31 *Eff. Jan 1./73*]

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